

SHB 3103 - S COMM AMD

By Committee on Early Learning & K-12 Education

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.400  
4 RCW to read as follows:

5 (1) RCW 28A.400.320, 28A.400.330, 28A.405.470, 28A.410.090(3),  
6 28A.410.110, 9.96A.020, and 43.43.845 apply upon a guilty plea or  
7 conviction occurring after July 23, 1989, and before the effective date  
8 of this section, for any of the following felony crimes:

9 (a) Any felony crime involving the physical neglect of a child  
10 under chapter 9A.42 RCW;

11 (b) The physical injury or death of a child under chapter 9A.32 or  
12 9A.36 RCW, except motor vehicle violations under chapter 46.61 RCW;

13 (c) Sexual exploitation of a child under chapter 9.68A RCW;

14 (d) Sexual offenses under chapter 9A.44 RCW where a minor is the  
15 victim;

16 (e) Promoting prostitution of a minor under chapter 9A.88 RCW;

17 (f) The sale or purchase of a minor child under RCW 9A.64.030;

18 (g) Violation of laws of another jurisdiction that are similar to  
19 those specified in (a) through (f) of this subsection.

20 (2) RCW 28A.400.320, 28A.400.330, 28A.405.470, 28A.410.090(3),  
21 28A.410.110, 9.96A.020, and 43.43.845 apply upon a guilty plea or  
22 conviction occurring on or after the effective date of this section,  
23 for any of the following felony crimes or attempts, conspiracies, or  
24 solicitations to commit any of the following felony crimes:

25 (a) A felony violation of RCW 9A.88.010, indecent exposure;

26 (b) A felony violation of chapter 9A.42 RCW involving physical  
27 neglect;

28 (c) A felony violation of chapter 9A.32 RCW;

29 (d) A violation of RCW 9A.36.011, assault 1; 9A.36.021, assault 2;  
30 9A.36.120, assault of a child 1; 9A.36.130, assault of a child 2; or

1 any other felony violation of chapter 9A.36 RCW involving physical  
2 injury except assault 3 where the victim is eighteen years of age or  
3 older;

4 (e) A sex offense as defined in RCW 9.94A.030;

5 (f) A violation of RCW 9A.40.020, kidnapping 1; or 9A.40.030,  
6 kidnapping 2;

7 (g) A violation of RCW 9A.64.030, child selling or child buying;

8 (h) A violation of RCW 9A.88.070, promoting prostitution 1;

9 (i) A violation of RCW 9A.56.200, robbery 1; or

10 (j) A violation of laws of another jurisdiction that are similar to  
11 those specified in (a) through (i) of this subsection.

12 **Sec. 2.** RCW 28A.400.320 and 1990 c 33 s 383 are each amended to  
13 read as follows:

14 (1) The school district board of directors shall immediately  
15 terminate the employment of any classified employee who has contact  
16 with children during the course of his or her employment upon a guilty  
17 plea or conviction of any felony crime (~~((involving the physical neglect  
18 of a child under chapter 9A.42 RCW, the physical injury or death of a  
19 child under chapter 9A.32 or 9A.36 RCW (except motor vehicle violations  
20 under chapter 46.61 RCW), sexual exploitation of a child under chapter  
21 9.68A RCW, sexual offenses under chapter 9A.44 RCW where a minor is the  
22 victim, promoting prostitution of a minor under chapter 9A.88 RCW, the  
23 sale or purchase of a minor child under RCW 9A.64.030, or violation of  
24 similar laws of another jurisdiction))~~ specified under section 1 of  
25 this act.

26 (2) The employee shall have a right of appeal under chapter 28A.645  
27 RCW including any right of appeal under a collective bargaining  
28 agreement.

29 **Sec. 3.** RCW 28A.400.330 and 1989 c 320 s 4 are each amended to  
30 read as follows:

31 The school district board of directors shall include in any  
32 contract for services with an entity or individual other than an  
33 employee of the school district a provision requiring the contractor to  
34 prohibit any employee of the contractor from working at a public school  
35 who has contact with children at a public school during the course of  
36 his or her employment and who has pled guilty to or been convicted of

1 any felony crime (~~((involving the physical neglect of a child under~~  
2 ~~chapter 9A.42 RCW, the physical injury or death of a child under~~  
3 ~~chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under~~  
4 ~~chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A~~  
5 ~~RCW, sexual offenses under chapter 9A.44 RCW where a minor is the~~  
6 ~~victim, promoting prostitution of a minor under chapter 9A.88 RCW, the~~  
7 ~~sale or purchase of a minor child under RCW 9A.64.030, or violation of~~  
8 ~~similar laws of another jurisdiction)) specified under section 1 of  
9 this act. The contract shall also contain a provision that any failure  
10 to comply with this section shall be grounds for the school district  
11 immediately terminating the contract.~~

12 **Sec. 4.** RCW 28A.405.470 and 1990 c 33 s 405 are each amended to  
13 read as follows:

14 The school district shall immediately terminate the employment of  
15 any person whose certificate or permit authorized under chapter 28A.405  
16 or 28A.410 RCW is subject to revocation under RCW 28A.410.090(~~((+2))~~)  
17 (3) upon a guilty plea or conviction of any felony crime (~~((involving~~  
18 ~~the physical neglect of a child under chapter 9A.42 RCW, the physical~~  
19 ~~injury or death of a child under chapter 9A.32 or 9A.36 RCW (except~~  
20 ~~motor vehicle violations under chapter 46.61 RCW), sexual exploitation~~  
21 ~~of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44~~  
22 ~~RCW where a minor is the victim, promoting prostitution of a minor~~  
23 ~~under chapter 9A.88 RCW, the sale or purchase of a minor child under~~  
24 ~~RCW 9A.64.030, or violation of similar laws of another jurisdiction))~~  
25 specified under section 1 of this act. Employment shall remain  
26 terminated unless the employee successfully prevails on appeal. This  
27 section shall only apply to employees holding a certificate or permit  
28 who have contact with children during the course of their employment.

29 **Sec. 5.** RCW 28A.410.090 and 2005 c 461 s 2 are each amended to  
30 read as follows:

31 (1)(a) Any certificate or permit authorized under the provisions of  
32 this chapter, chapter 28A.405 RCW, or rules promulgated thereunder may  
33 be revoked or suspended by the authority authorized to grant the same  
34 based upon a criminal records report authorized by law, or upon the  
35 complaint of any school district superintendent, educational service  
36 district superintendent, or private school administrator for

1 immorality, violation of written contract, unprofessional conduct,  
2 intemperance, or crime against the law of the state. School district  
3 superintendents, educational service district superintendents, or  
4 private school administrators may file a complaint concerning any  
5 certificated employee of a school district, educational service  
6 district, or private school and this filing authority is not limited to  
7 employees of the complaining superintendent or administrator.

8 (b) If the superintendent of public instruction has reasonable  
9 cause to believe that an alleged violation of this chapter or rules  
10 adopted under it has occurred based on a written complaint alleging  
11 physical abuse or sexual misconduct by a certificated school employee  
12 filed by a parent or another person, but no complaint has been  
13 forwarded to the superintendent by a school district superintendent,  
14 educational service district superintendent, or private school  
15 administrator, and that a school district superintendent, educational  
16 service district superintendent, or private school administrator has  
17 sufficient notice of the alleged violation and opportunity to file a  
18 complaint, the superintendent of public instruction may cause an  
19 investigation to be made of the alleged violation, together with such  
20 other matters that may be disclosed in the course of the investigation  
21 related to certificated personnel.

22 (2) A parent or another person may file a written complaint with  
23 the superintendent of public instruction alleging physical abuse or  
24 sexual misconduct by a certificated school employee if:

25 (a) The parent or other person has already filed a written  
26 complaint with the educational service district superintendent  
27 concerning that employee;

28 (b) The educational service district superintendent has not caused  
29 an investigation of the allegations and has not forwarded the complaint  
30 to the superintendent of public instruction for investigation; and

31 (c) The written complaint states the grounds and factual basis upon  
32 which the parent or other person believes an investigation should be  
33 conducted.

34 (3)(a) Any such certificate or permit authorized under this chapter  
35 or chapter 28A.405 RCW shall be revoked by the authority authorized to  
36 grant the certificate upon a guilty plea or the conviction of any  
37 felony crime (~~involving the physical neglect of a child under chapter~~  
38 ~~9A.42 RCW, the physical injury or death of a child under chapter 9A.32~~

1 ~~or 9A.36 RCW (excepting motor vehicle violations under chapter 46.61~~  
2 ~~RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual~~  
3 ~~offenses under chapter 9A.44 RCW where a minor is the victim, promoting~~  
4 ~~prostitution of a minor under chapter 9A.88 RCW, the sale or purchase~~  
5 ~~of a minor child under RCW 9A.64.030, or violation of similar laws of~~  
6 ~~another jurisdiction)) specified under section 1 of this act, in~~  
7 ~~accordance with this section.~~ The person whose certificate is in  
8 question shall be given an opportunity to be heard.

9 (b) Mandatory permanent revocation upon a guilty plea or the  
10 conviction of felony crimes specified under (~~this subsection~~) section  
11 1(1) of this act shall apply to such convictions or guilty pleas which  
12 occur after July 23, 1989, and before the effective date of section 1  
13 of this act.

14 (c) Mandatory permanent revocation upon a guilty plea or conviction  
15 of felony crimes specified under section 1(2) of this act shall apply  
16 to such convictions or guilty pleas that occur on or after the  
17 effective date of section 1 of this act.

18 (d) Revocation of any certificate or permit authorized under this  
19 chapter or chapter 28A.405 RCW for a guilty plea or criminal conviction  
20 of a crime specified under section 1 of this act occurring prior to  
21 July 23, 1989, shall be subject to the provisions of subsection (1) of  
22 this section.

23 (4)(a) Any such certificate or permit authorized under this chapter  
24 or chapter 28A.405 RCW shall be suspended or revoked, according to the  
25 provisions of this subsection, by the authority authorized to grant the  
26 certificate upon a finding that an employee has engaged in an  
27 unauthorized use of school equipment to intentionally access material  
28 depicting sexually explicit conduct or has intentionally possessed on  
29 school grounds any material depicting sexually explicit conduct; except  
30 for material used in conjunction with established curriculum. A first  
31 time violation of this subsection shall result in either suspension or  
32 revocation of the employee's certificate or permit as determined by the  
33 office of the superintendent of public instruction. A second violation  
34 shall result in a mandatory revocation of the certificate or permit.

35 (b) In all cases under this subsection (4), the person whose  
36 certificate is in question shall be given an opportunity to be heard  
37 and has the right to appeal as established in RCW 28A.410.100.  
38 Certificates or permits shall be suspended or revoked under this

1 subsection only if findings are made on or after July 24, 2005. For  
2 the purposes of this subsection, "sexually explicit conduct" has the  
3 same definition as provided in RCW 9.68A.011.

4 (5) Any such certificate or permit authorized under this chapter or  
5 chapter 28A.405 RCW shall be revoked by the authority authorized to  
6 grant the certificate upon a finding that the certificate holder  
7 obtained the certificate through fraudulent means, including fraudulent  
8 misrepresentation of required academic credentials or prior criminal  
9 record. In all cases under this subsection, the person whose  
10 certificate is in question shall be given an opportunity to be heard  
11 and has the right to appeal as established in RCW 28A.410.100.  
12 Certificates or permits shall be revoked under this subsection only if  
13 findings are made on or after the effective date of this section.

14 **Sec. 6.** RCW 28A.410.110 and 1990 c 33 s 410 are each amended to  
15 read as follows:

16 In case any certificate or permit authorized under this chapter or  
17 chapter 28A.405 RCW is revoked, the holder shall not be eligible to  
18 receive another certificate or permit for a period of twelve months  
19 after the date of revocation. However, if the certificate or permit  
20 authorized under this chapter or chapter 28A.405 RCW was revoked  
21 because of a guilty plea or the conviction of a felony crime  
22 (~~involving the physical neglect of a child under chapter 9A.42 RCW,~~  
23 ~~the physical injury or death of a child under chapter 9A.32 or 9A.36~~  
24 ~~RCW (except motor vehicle violations under chapter 46.61 RCW), sexual~~  
25 ~~exploitation of a child under chapter 9.68A RCW, sexual offenses under~~  
26 ~~chapter 9A.44 RCW where a minor is the victim, promoting prostitution~~  
27 ~~of a minor under chapter 9A.88 RCW, the sale or purchase of a minor~~  
28 ~~child under RCW 9A.64.030, or violation of similar laws of another~~  
29 ~~jurisdiction)) specified under section 1 of this act, the certificate  
30 or permit shall not be reinstated.~~

31 **Sec. 7.** RCW 9.96A.020 and 1999 c 16 s 1 are each amended to read  
32 as follows:

33 (1) Subject to the exceptions in subsections (3) and (4) of this  
34 section, and unless there is another provision of law to the contrary,  
35 a person is not disqualified from employment by the state of Washington  
36 or any of its counties, cities, towns, municipal corporations, or

1 quasi-municipal corporations, nor is a person disqualified to practice,  
2 pursue or engage in any occupation, trade, vocation, or business for  
3 which a license, permit, certificate or registration is required to be  
4 issued by the state of Washington or any of its counties, cities,  
5 towns, municipal corporations, or quasi-municipal corporations solely  
6 because of a prior conviction of a felony. However, this section does  
7 not preclude the fact of any prior conviction of a crime from being  
8 considered.

9 (2) A person may be denied employment by the state of Washington or  
10 any of its counties, cities, towns, municipal corporations, or quasi-  
11 municipal corporations, or a person may be denied a license, permit,  
12 certificate or registration to pursue, practice or engage in an  
13 occupation, trade, vocation, or business by reason of the prior  
14 conviction of a felony if the felony for which he or she was convicted  
15 directly relates to the position of employment sought or to the  
16 specific occupation, trade, vocation, or business for which the  
17 license, permit, certificate or registration is sought, and the time  
18 elapsed since the conviction is less than ten years. However, for  
19 positions in the county treasurer's office, a person may be  
20 disqualified from employment because of a prior guilty plea or  
21 conviction of a felony involving embezzlement or theft, even if the  
22 time elapsed since the guilty plea or conviction is ten years or more.

23 (3) A person is disqualified for any certificate required or  
24 authorized under chapters 28A.405 or 28A.410 RCW, because of a prior  
25 guilty plea or the conviction of a felony (~~(involving sexual~~  
26 ~~exploitation of a child under chapter 9.68A RCW, sexual offenses under~~  
27 ~~chapter 9A.44 RCW where a minor is the victim, promoting prostitution~~  
28 ~~of a minor under chapter 9A.88 RCW, or a violation of similar laws of~~  
29 ~~another jurisdiction)) crime specified under section 1 of this act,  
30 even if the time elapsed since the guilty plea or conviction is ten  
31 years or more.~~

32 (4) A person is disqualified from employment by school districts,  
33 educational service districts, and their contractors hiring employees  
34 who will have regularly scheduled unsupervised access to children,  
35 because of a prior guilty plea or conviction of a felony (~~(involving~~  
36 ~~sexual exploitation of a child under chapter 9.68A RCW, sexual offenses~~  
37 ~~under chapter 9A.44 RCW where a minor is the victim, promoting~~  
38 ~~prostitution of a minor under chapter 9A.88 RCW, or a violation of~~

1 ~~similar laws of another jurisdiction))~~ crime specified under section 1  
2 of this act, even if the time elapsed since the guilty plea or  
3 conviction is ten years or more.

4 (5) Subsections (3) and (4) of this section (~~only~~) as they  
5 pertain to felony crimes specified under section 1(1) of this act apply  
6 to a person applying for a certificate or for employment on or after  
7 July 25, 1993, and before the effective date of section 1 of this act.  
8 Subsections (3) and (4) of this section as they pertain to all felony  
9 crimes specified under section 1(2) of this act apply to a person  
10 applying for a certificate or for employment on or after the effective  
11 date of section 1 of this act.

12 **Sec. 8.** RCW 43.43.845 and 2006 c 263 s 828 are each amended to  
13 read as follows:

14 (1) Upon a guilty plea or conviction of a person of any felony  
15 crime (~~involving the physical neglect of a child under chapter 9A.42~~  
16 ~~RCW, the physical injury or death of a child under chapter 9A.32 or~~  
17 ~~9A.36 RCW (except motor vehicle violations under chapter 46.61 RCW),~~  
18 ~~sexual exploitation of a child under chapter 9.68A RCW, sexual offenses~~  
19 ~~under chapter 9A.44 RCW, promoting prostitution of a minor under~~  
20 ~~chapter 9A.88 RCW, or the sale or purchase of a minor child under RCW~~  
21 ~~9A.64.030))~~ specified under section 1 of this act, the prosecuting  
22 attorney shall notify the state patrol of such guilty pleas or  
23 convictions.

24 (2) When the state patrol receives (~~information that a person has~~  
25 ~~pled guilty to or been convicted of one of the felony crimes~~) the  
26 notice required under subsection (1) of this section, the state patrol  
27 shall transmit that information to the superintendent of public  
28 instruction. It shall be the duty of the superintendent of public  
29 instruction, on at least a quarterly basis, to identify whether the  
30 person holds a certificate or permit issued under chapters 28A.405 and  
31 28A.410 RCW or is employed by a school district, and provide this  
32 information to the Washington professional educator standards board and  
33 the school district employing the (~~individual who pled guilty or was~~  
34 ~~convicted of the crimes identified in subsection (1) of this section~~)  
35 person.

1        NEW SECTION.    **Sec. 9.**    A new section is added to chapter 41.59 RCW  
2 to read as follows:

3        Nothing in this chapter may be construed to grant employers or  
4 employees the right to reach agreements that are in conflict with the  
5 termination provisions of RCW 28A.405.470.

6        NEW SECTION.    **Sec. 10.**    A new section is added to chapter 41.56 RCW  
7 to read as follows:

8        Nothing in this chapter may be construed to grant school district  
9 employers or classified school district employees the right to reach  
10 agreements that are in conflict with the termination provisions of RCW  
11 28A.400.320."

**SHB 3103** - S COMM AMD

By Committee on Early Learning & K-12 Education

12        On page 1, line 2 of the title, after "employees;" strike the  
13 remainder of the title and insert "amending RCW 28A.400.320,  
14 28A.400.330, 28A.405.470, 28A.410.090, 28A.410.110, 9.96A.020, and  
15 43.43.845; adding a new section to chapter 28A.400 RCW; adding a new  
16 section to chapter 41.59 RCW; and adding a new section to chapter 41.56  
17 RCW."

--- END ---